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Art Unit 3711

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Sebastiano Passaniti
Applicants: Frank Thomas
Serial No: 09/845,280
Filed: April 30, 2001
TITLE: A Golf Club Having An Alignment Device Thereon

Customer No.: 27172

DECLARATION

I, Ralph D. Maltby, declare under penalty of perjury that:

I graduated in 1969 from the University of South Florida, Tampa with a Bachelor of Arts degree in Marketing;

From 1969 to 1973, I was employed by Spalding, of Chicopee, Massachusetts as a Product Engineer and subsequently as Product Manager;

From 1973 to 1976, I was employed by Faultless Sports, of Newark, Ohio as Vice President Marketing and subsequently as Vice President Operations;

From 1976 to the present, I have been the Chairman and owner of Ralph Maltby Enterprises, Inc., of Newark, Ohio;

I have had over thirty years of experience in the research and development of golf clubs including the design of golf clubs for 10 different OEM manufacturers including Spalding, Faultless Sports, Toney Penna Golf, Rawlings Golf, Dunlop, Maxfli, PowerBilt, Toski and Tommy Armour Golf;

I am the current head of research and development of all new golf club models for the Tommy Armour Golf Company;

I have designed many proprietary golf shaft models for various OEM manufacturers and Ralph Maltby Enterprises, Inc.

I am the named inventor of US Patent 4,804,184 and US Design Patents 424,146; 392,009; 390,616 and 379,106;

I have authored several books relating to golf clubs including:

Golf Club Design, Fitting, Alteration and Repair (1974) 4th Edition;

Golf Club Repair in Pictures (1978) 4th Edition;

The Golf Club Assembly Manual (1981) 3rd Edition;

The Complete Golf Club Fitting Plan (1986) 2nd Edition;

The Professionals Dynamic Club Fitting Manual (1994) 1st Edition; and

How Golf Clubs Affect Your Ability to Score (1997) 2nd Edition;

I have authored numerous magazine articles over a 30-year period both as a staff writer and as an independent author for such publications as *Golf Magazine*, *Golf Digest*, *Golf Shop Operations*, *Golf Week*, *Score*, *Golf Monthly*, *Golf Digest Asia*, *Golfdom*, and *Links*;

I have conducted over 200 seminars for the Professional Golfers Association Business Schools I and II from 1972 to 1987 (Apprentice certification);

I have been an instructor at PGA Tour Schools for 12 consecutive years to the world's finest players (a 5 hour seminar entitled "How Golf Clubs Affect Your Ability to Score and Working With Your Equipment");

I have taught over 50 PGA five-day hands-on workshops on golf club repair, golf club fitting and golf club design principles;

I have conducted over 100 PGA Section Seminars on many golf technical subjects;

I have provided instruction at 7 Master Clubmaker schools in my Research and Development Studio to date;

I have participated as a speaker at many different golf club manufacturers' sales meetings as a guest technical presenter;

I have lectured at hundreds of schools and seminars relating to the golf business, including engineering societies, retail store chains, golf buying groups, golf award ceremonies, golf course spring openers and foreign seminars;

I have appeared on *The Golf Channel* TV shows discussing golf technical information;

I am a Member of:

The Golf Writers Association of America (28 years)

The Golf Collectors Society (32 years)

The New Zealand Professional Golfers Association (25 years)

Professional Clubmakers Society Hall of Fame (Jan.1996)

Honorary lifetime member of the Professional Clubmakers Society

I was named in the September 1991 issue of *Golf Digest Magazine* in an article titled "The 36 Most Powerful Men in Golf ", Ranked # 16;

I have read the USPTO Office Action dated March 19, 2004 in Patent Application No. 09/845,280 filed April 30, 2001 and understand that claims 1 to 4, 26 and 27 of this patent application have been rejected as being unpatentable over Reach (US Patent 1,433,150) in view of Seisaku (Japanese Patent 405329233).

I have read and understood claims 1 to 27 of said patent application.

I understand that claim 1 requires a golf club to have an alignment means (that may be a continuous line or a non-continuous line) that extends along the shaft and the

head of the golf club in a plane that is (1) parallel to the striking face of the head and (2) perpendicular to the longitudinal axis of the shaft, that is, that the plane passes through the longitudinal axis of the shaft.

I understand that claim 26 requires a putter to have a line that has one portion extending along the surface of the shaft and a second portion extending along a surface of the head with the two portions disposed (1) in a common plane with the longitudinal axis of the shaft and (2) in a plane parallel to a plane containing the striking face of the head.

I have read and understood Reach. It is my understanding that Reach teaches that a sighting line c can be provided to extend from the toe of a putter to the top of the hosel of the putter in parallel with the face a2 of a putter head in order to square off the face a2 to the line of play. As illustrated in Fig. 2, the face a2 of the putter head has an inclined angle of loft to the vertical plane. Thus, while the sighting line c may be used to square the clubface a2 to a line of flight, the sighting line cannot be used to place the face a2 of the putter in a vertical plane. For example, if the golf club is tilted clockwise as viewed in Fig.2, the clubface a2 will be brought into a vertical plane or slightly beyond the vertical plane. Conversely, if the golf club is tilted counter clockwise as viewed, the putter face a2 will be more inclined to the vertical than as shown in Fig. 2. Reach provides no teaching as to how to determine when the putter face a2 is vertical.

Reach does not describe or teach that the sighting line c is in a common plane with the longitudinal axis of the putter shaft.

I understand that the US Patent Examiner believes that it would be obvious to one of ordinary skill in the art to modify the device of Reach by extending the sighting line c along the shaft b of the putter with the motivation being to simply enhance the

effect of the sighting line. In my opinion, the US Patent Examiner is in error. First, there is no such teaching in Reach. Second, this would be contrary to the teaching of Reach which is to provide a sighting line that improves the accuracy of play without disturbing the proper "feel" and balance. Extending the line up the shaft b would be a distraction according to the teachings of Reach. Third, merely extending the sighting line c along the shaft without any reference to the axis of the shaft b or to the plane of the striking face of the head would be contrary to the teaching of using a line on the putter head to square the face a2 to the line of play.

In my opinion, simply extending the sighting line of Reach up the shaft b would not establish a common plane with the longitudinal axis of the shaft as required by claims 1 and 26 of the patent application nor a plane parallel to the striking face of the head. In fact, since the face a2 of Reach is inclined relative to the axis of the shaft b as viewed in Fig. 2, the face a2 would not be in a plane parallel to any sighting line that is extended up the shaft b of Reach.

I have read and understood Seisaku. I understand that Seisaku provides a tape with a straight edge on the shaft of a putter so that the straight edge is parallel to the face of the putter. Seisaku does not teach that the straight edge of the tape is to be in a common plane with the axis of the golf shaft.

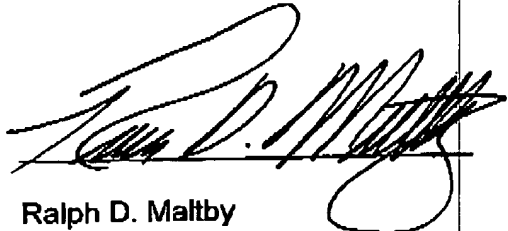
Neither Reach nor Seisaku has any teaching of providing a line with a first portion along the shaft of the putter and a second portion along a surface of a putter head with the two portions being disposed (1) in a common plane with the longitudinal axis of the shaft and (2) parallel to a plane containing the striking face of the head. Further, neither Reach nor Seisaku teaches the concept of the invention set forth in claims 1 to 4 and 26 and 27 of the patent application.

Taken as a whole, Reach and Seisaku teach that a line may be placed along a path parallel to the plane of the striking face of a putter to help a player orient the club at address. However, taken as a whole, Reach and Seisaku collectively do not teach that such line may be extended along the surface of the putter head and along the shaft of the putter to establish a plane that is not only parallel to the club face but also common to the longitudinal axis of the shaft.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

9/8/04

Date


Ralph D. Maltby